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which in debatable instances the discretion of the trial judge is entitled to much consideration.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 299.]

15. Trial (§ 139 (1)*)—Weight of Evidence of Experiments Is for the Jury.—The weight to be given to evidence of experiments is a question for the jury, and varies according to the circumstances of similarity existing between the experiments made and the actual occurrence under investigation.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 337.]

Error to Circuit Court, Campbell County.

Action by Frank A. Henderson, as administrator of the estate of Marian Henderson, deceased, against the Norfolk & Western Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

F. Markoe Rivinus, of Philadelphia, Pa., and *Howard & Burks*, for plaintiff in error.

John L. Lee, of Lynchburg, and *M. B. Booker*, of Halifax, for defendant in error.

DEARING et al. v. DEARING et al.

March 16, 1922.

[111 S. E. 286.]

1. Trial (§ 139 (1)*)—If Jury Might Have Found against Party Demurring to Evidence, Judgment Must Be against Him.—If the evidence to which a party demurs is such that a jury might have found a verdict for the opposite party, the court must give judgment for the opposite party.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 536.]

2. Wills (§ 303 (6)*)—Denial of Forgery of First Page of Will Corroborates Attesting Witness' Testimony of Execution.—Where contestants claimed the executor had substituted a forged first page to the will for the original first page, the denial of the forgery should be considered in corroboration of the testimony of the sole surviving attesting witness to the will, who testified he did not read the will when he attested it and did not know what it contained.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 777.]

3. Wills (§§ 111 (1), 119*)—Need Not Be Signed or Witnessed on Every Sheet.—Where a will is written on more than one sheet of paper, it is not necessary that the testator sign each sheet, nor that the attesting witnesses sign each sheet or acquaint themselves with the contents of the will before signing it, though it is the better practice to have each sheet signed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 730.]

4. Wills (§ 303 (6)*)—Testimony of Surviving Witness as Corrobo-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

rated Held to Show Paper Was Will as Written.—Testimony by the sole surviving witness to a will as to its execution, with denial by the executor that he had substituted the first page of the will, and other evidence as to the making of the will and testator's declarations as to disposition of his property, of which the executor received only one-tenth, held to show beyond doubt that the paper introduced as the will of testator was the will as actually written by him.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 777.]

5. Wills (§ 166 (2)*)—Evidence Held Not to Support Finding of Undue Influence.—In proceedings to contest a will, evidence that the testator had been taken to the home of one of the devisees while he was sick, and that, under the physician's orders, he had been denied visitors, together with the circumstances of the execution of the will and the fact that other relatives received the same share in the estate as those with whom testator was living, held not to sustain a verdict finding undue influence.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 777.]

6. Wills (§ 155 (1)*)—Undue Influence Must Overcome the Will of Testator.—Undue influence which is a ground for setting aside a will must be sufficient to destroy the free agency of the testator, and amount to coercion.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 386.]

7. Wills (§§ 166 (12), 302 (2)*)—Forgery, Undue Influence, and Fraud Cannot Be Inferred from Circumstances Consistent with Innocence.—Forgery, undue influence, and fraud in obtaining the testator's signature to a different instrument from that which he intended to sign are offenses too grave to be inferred from circumstances capable of innocent construction.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 394.]

8. Wills (§§ 166 (11), 305*)—Declarations of Testator before Making Will of Little Weight on Undue Influence and Forgery.—Declarations by the testator before he made his will to the effect that the law made a better will than he could are of little weight in determining the issue of undue influence in procuring a will which the contestants admitted was made, but which they claimed was procured by undue influence or had the first page thereof substituted.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 393.]

Appeal from Circuit Court Rappahannock County.

Suit to contest a will by R. Alvin Dearing and others against J. A. Dearing and others. Decree establishing the will, and contestants appeal. Affirmed.

Volney E. Howard and *H. C. Featherston*, both of Lynchburg, and *Chas. H. Keyser*, of Washington, Va., for plaintiffs in error.
Aubrey G. Weaver, of Front Royal, for defendants in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.